

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 140 - HB 392

February 18, 2013

**SUMMARY OF BILL:** Expands the definition of first degree murder to include the killing of another while committing domestic abuse, if the perpetrator has a history of domestic abuse and the death occurs with extreme indifference to human life.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$17,600/One-Time  
\$209,900/Recurring  
\$3,750,100/Incarceration\***

**Other Fiscal Impact – An average of one offender per year will receive a death sentence. If a capital offender serves an average of 20 years before the sentence is carried out, there will be no significant additional incarceration costs for the capital offender, apart from the execution. The cost of executing each inmate will exceed \$15,000. The cost to the State of capital trials and appeals is substantially higher than for non-capital cases. It is estimated that the additional cost of capital trials and appeals will exceed \$750,000 for each case.**

**Assumptions:**

- First degree murder is punishable by death, life imprisonment without the possibility of parole, and life imprisonment with the possibility of parole—but the offender is required to serve 51 years in prison before being eligible for parole.
- According to the Tennessee Bureau of Investigation's 2011 Crime in Tennessee report ([http://www.tbi.tn.gov/tn\\_crime\\_stats/publications/Crime%20in%20Tennessee%202011.pdf](http://www.tbi.tn.gov/tn_crime_stats/publications/Crime%20in%20Tennessee%202011.pdf)), there has been an average of 88 homicides cleared, or processed by local law enforcement, each year over the past three years which were tied to domestic violence. The Department of Correction (DOC), assumes that 90 percent (79 offenders) of those arrests fall under the proposed offense and that 35 percent (28 offenders) of those offenders have a pattern of domestic abuse. The bill would result in 28 offenders each year being convicted of first degree murder rather than second degree murder.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for 3 (28 x .1178) additional admissions for a total of 31 (28 + 3).

- According to the DOC, 49.11 percent of offenders will re-offend within three years of their release. A recidivism discount of 49.11 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (31 offenders x .4911 = 15 offenders).
- According to the DOC, the average time served for second degree murder is 17 years. An offender convicted of first degree murder that receives a sentence of life imprisonment with the possibility of parole will serve no less than 51 years. The bill would result in each offender serving an additional 34 years (51 years – 17 years).
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2013 is \$64.17. The cost per offender at 17 years (6,209.25) is \$398,448 (\$64.17 x 6,209.25 days). The cost per offender at 27 years (10<sup>th</sup> year) is \$632,829 (\$64.17 x 9,861.75 days). The additional cost of increasing the average sentence length is \$234,381 (\$632,829 – \$398,448). The total cost for 16 offenders [31 offenders – 15 (recidivism discount)] is \$3,750,096 (\$234,381 x 16).
- The District Public Defenders Conference and the District Attorneys General Conference will require additional attorneys for trials and appeals of the additional death penalty and life imprisonment without parole cases. Supreme Court Rule 13 requires the appointment of two defense attorneys with specialized training in each capital case. Reimbursement rates for appointed defense counsel are higher in capital cases. In non-capital cases, the hourly rates are \$40/hour out-of-court and \$50/hour in-court. In capital cases, the hourly rates are \$75/hour for lead counsel out-of-court, \$100/hour for lead counsel in-court, \$60/hour for co-counsel out-of-court, and \$80/hour for co-counsel in-court.
- It is assumed that two assistant district attorneys will be hired at entry level positions with a salary of \$40,400. It is assumed that the assistant district attorneys will each require one-time expenditures for equipment, furniture, books, and other related costs in the amount of \$4,400 each.
- The bill will result in a one-time expenditure of \$8,800 (\$4,400 x 2) and increased expenditures of \$104,943 {[\$40,400 salary + (\$40,400 x .1503 benefits) + \$5,999.28 insurance] x 2}.
- It is assumed that the new public defenders will be hired at entry level positions with a salary of \$40,400. It is assumed that the public defenders will each require one-time expenditures for equipment, furniture, books, and other related costs in the amount of \$4,400 each.
- The bill will result in a one-time expenditure of \$8,800 (\$4,400 x 2) and increased expenditures of \$104,943 {[\$40,400 salary + (\$40,400 x .1503 benefits) + \$5,999.28 insurance] x 2}.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm